

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WILLIAM FOLEY,)	
)	
Plaintiff,)	
)	
V.)	Civil Action No. 04- 12126 EFH
)	
ALCATEL USA, INC.,)	
)	
Defendant.)	

**DEFENDANT ALCATEL USA, INC.'S MOTION FOR SUMMARY JUDGMENT
AND REQUEST FOR ORAL ARGUMENT**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, defendant Alcatel USA, Inc. ("Alcatel") moves for summary judgment on Mr. Foley's claim under Section 502(a)(1)(B) of the Employment Retirement and Income Security Act ("ERISA").

Alcatel submits that there is no genuine, material issue to be tried in this action and that it is entitled to judgment as a matter of law. In support of its motion, Alcatel relies upon Defendant's Statement Of Material Facts As To Which There Is No Genuine Issue To Be Tried ("Statement"), Defendants' Memorandum of Law in Support of Motion for Summary Judgment, and the affidavits of Brenda Mills and Julie Liptak.

REQUEST FOR ORAL ARGUMENT

Alcatel respectfully asks for oral argument on its motion at the earliest date convenient for the Court. The Final Pretrial Conference in this matter currently is scheduled for March 7, 2006.

ALCATEL USA, INC.

By its attorneys,

/s/ Jill Brenner Meixel
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Dated: September 16, 2005

LOCAL RULE 7.1(A)(2) CERTIFICATION

I hereby certify that on September 16, 2005, I conferred by telephone with John Burke, counsel for William Foley, and attempted in good faith to resolve or narrow the issue presented by this Motion.

/s/ T. Christopher Donnelly